

**SUPREME COURT CALENDAR
SPECIAL SESSION—SAN JOSE
DECEMBER 2 and 3, 2003**

The following cases are placed upon the calendar of the Supreme Court for a special session at the Superior Court of California, County of Santa Clara, 161 North First Street, San Jose, California, on December 2 and 3, 2003.

TUESDAY, DECEMBER 2, 2003—9:00 A.M.

Opening Remarks: Historical Special Session
(Morning session to be televised.)

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| (1) | S099822 | Catholic Charities v. Superior Court, County of Sacramento;
Department of Managed Health Care (R.P.I.) |
| (2) | S106843 | In re Jesusa V. |
| (3) | S109609 | E.M.M.I. Inc. v. Zurich American |

2:00 P.M.

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| (4) | S111998 | Casa Herrera v. Beydoun |
| (5) | S113803 | People v. Johnson |

WEDNESDAY, DECEMBER 3, 2003—9:00 A.M.

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| (6) | S106906 | People v. Pena |
| (7) | S103417 | Martin v. Szeto |
| (8) | S102965 | People v. Holmes |

1:30 P.M.

- | | | |
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| (9) | S102371 | Metropolitan Water District v. Superior Court, County of
Los Angeles; Cargill (R.P.I.) |
| (10) | S105078 | Richmond v. Shasta Community Services |

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT CALENDAR
SPECIAL SESSION—SAN JOSE
DECEMBER 2 and 3, 2003**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, DECEMBER 2, 2003—9:00 A.M.

Opening Remarks: Historical Special Session
(Morning session to be televised.)

(1) Catholic Charities v. Superior Court, County of Sacramento; Department of Managed Health Care (R.P.I.), S099822

#01-122 Catholic Charities v. Superior Court, County of Sacramento; Department of Managed Health Care (R.P.I.), S099822. (C037025; 90 Cal.App.4th 425.)

Petition for review after the Court of Appeal affirmed an order denying a preliminary injunction. This case includes the following issues: (1) Do statutes that require employers who provide health insurance prescription coverage to include coverage for prescription contraceptives (Health & Saf. Code, § 1367.25; Ins. Code, § 10123.16), as applied to an employer whose religious beliefs consider artificial contraception to be sinful, violate the provisions of the California or federal Constitution guaranteeing the free exercise of religion? (2) Does the California Constitution provide greater protection for conduct motivated by religious belief than the federal Constitution provides?

(2) In re Jesusa V., S106843

#02-135 In re Jesusa V., S106843. (B151885; 97 Cal.App.4th 878.) Petition for review after the Court of Appeal affirmed and reversed orders in a dependency proceeding. This case includes the following issues: (1) Does biological paternity

of one presumed father defeat a presumption of paternity of a nonbiological father? (2) Does an incarcerated presumed father have a statutory or due process right to be personally present at any hearing on paternity status or is the presence of the presumed father's attorney sufficient to satisfy the presumed father's rights?

(3) *E.M.M.I. Inc. v. Zurich American*, S109609

#02-170 *E.M.M.I. Inc. v. Zurich American*, S109609. (B152740; 100 Cal.App.4th 460.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case presents the following issue: Does a jeweler's block insurance policy provide coverage for theft of jewelry from a vehicle when an insured's employee is standing outside the vehicle at the moment it and the jewelry it contains are taken?

2:00 P.M.

(4) *Casa Herrera, Inc. v. Beydoun*, S111998

#03-12 *Casa Herrera, Inc. v. Beydoun*, S111998. (D038326; 103 Cal.App.4th 83; San Diego County Superior Court; GIC760127.) Petition for review after the Court of Appeal reversed a judgment dismissing a civil action. This case presents the following issue: When an initial lawsuit is dismissed because the parole evidence rule precluded the plaintiff from introducing evidence to support its claim, is the termination of that lawsuit a "favorable termination on the merits" permitting the defendant to bring a malicious prosecution action, or is the termination a "procedural or technical" termination that does not support a malicious prosecution action?

(5) *People v. Johnson*, S113803

#03-55 *People v. Johnson*, S113803. (H023838; 105 Cal.App.4th 515; Santa Clara County Superior Court; 208944.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. This case includes the following issue: Where

the trial court recalls a sentence under Penal Code section 1170(d) and resentences the defendant, is the defendant entitled to presentence credit under Penal Code section 4019 for the time the defendant spent in prison serving his or her original sentence before the resentencing?

WEDNESDAY, DECEMBER 3, 2003—9:00 A.M.

(6) People v. Pena, S106906

#02-114 People v. Pena, S106906. (E029490; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of criminal offenses. The court limited review to the following issue: Does the standard oral argument waiver notice used by the Court of Appeal, Fourth District, Division Two, improperly infringe upon a defendant's right to oral argument?

(7) Martin v. Szeto, S103417

#02-32 Martin v. Szeto, S103417. (A094405; 94 Cal.App.4th 687.) Petition for review after the Court of Appeal reversed an order in a civil action. This case includes the following issue: Does Code of Civil Procedure section 1021.7 permit an award of attorney fees to a defendant in any action for libel or slander, or only in libel or slander actions that are brought by or against a peace officer?

(8) People v. Holmes, S102965

#02-22 People v. Holmes, S102965. (E027589; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issue: Did the trial court, in accepting defendant's guilty plea, make an adequate inquiry to assure that there was a "factual basis" for the plea, as required by Penal Code section 1192.5?

1:30 P.M.

(9) Metropolitan Water District v. Superior Court, County of Los Angeles; Cargill (R.P.I.), S102371

#02-11 Metropolitan Water District v. Superior Court, County of Los Angeles; Cargill (R.P.I.), S102371. (B148446, B148451; 92 Cal.App.4th 1112.) Petition for review after the Court of Appeal denied petitions for peremptory writ of mandate. This case includes the following issue: Is a local agency that contracts with the California Public Employment Retirement System (CalPERS) obligated to enroll in CalPERS those employees of private contractors who are common law employees of the local agency?

(10) Richmond v. Shasta Community Services, S105078

#02-88 Richmond v. Shasta Community Services, S105078. (C034239; 95 Cal.App.4th 1227.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Are the water connection and fire suppression fees at issue in this case special assessments subject to the voter approval requirements of article XIII D of the California Constitution or development fees exempt from those requirements? (2) Can exempt development fees be adopted by resolution or only by local ordinance?